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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/531,952

01/20/2006

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050246

4301

23850 7590 04/15/2008  
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EXAMINER

LACLAIR, DARCY D

ART UNIT

PAPER NUMBER

4171

MAIL DATE

DELIVERY MODE

04/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/531,952 | <b>Applicant(s)</b><br>TANAKA ET AL. |  |
|                              | <b>Examiner</b><br>Darcy D. LaClair  | <b>Art Unit</b><br>4171              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.                                                          | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- ❖ Group I, claim 1 with or without non-reactive additives\*, drawn to a resin composition including a lactic acid based resin and an aromatic aliphatic polyester AND an aliphatic polyester, both with Tg of 0°C or less and a heat of crystal melting ( $\Delta H_m$ ) of 5 J/g to 30J/g, in combination with additives noted below. (Essentially claims 3-6 dependant on claim 1 only)
- ❖ Group II, claim 2 with or without non-reactive additives\*, drawn to a resin composition including a lactic acid based resin and an aromatic aliphatic polyester OR an aliphatic polyester, both with Tg of 0°C or less and a heat of crystal melting ( $\Delta H_m$ ) of 5 J/g to 30J/g, AND an aliphatic polyester with Tg of 0°C or less and a heat of crystal melting ( $\Delta H_m$ ) of 50 J/g to 70J/g in combination with additives noted below. (Essentially claims 3-6 dependant on claim 2 only)
- ❖ Group III, claims 9-12, drawn to a resin composition including a lactic acid based resin and an aromatic aliphatic polyester OR an aliphatic polyester, both with Tg of 0°C or less and a heat of crystal melting ( $\Delta H_m$ ) of 5 J/g to 30J/g, in combination with additives noted below.

\*The additives indicated above would include an inorganic filler having a mean particle size of 1 mm to 5 mm, a carbodiimide, an ester compound having a molecular weight of 200 to 2000, or a hiding agent having a refractive index of 2.0 or more.

Any of the above groups may be elected in combination with the molded article formed by injection molding of the resin, and the article further crystallized at a temperature within a range of 60°C to 130°C (the subject matter of claims 7 and 8 or 13 and 14).

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2. The inventions listed as Groups I - III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The combination of lactic acid resin plus an aliphatic polyester, the combination of lactic acid resin plus an aromatic aliphatic polyester, and the combination of a lactic acid resin plus an aromatic aliphatic and/or a aliphatic polyester are show in the prior art. EP1003383 teaches a polylactic acid-family polymer and other aliphatic polyester at the ratio 80:20 to 20:80. US Patent 5,403,897 teaches a lactic acid-based copolyester with an aromatic polyester and/or an aliphatic polyester with the lactic acid-based copolyester having 25 to 98 parts by weight, the aromatic polyester having 1 to 70 parts by weight, and the aliphatic polyester having 1 to 70 parts by weight.

3. A telephone call was made to Don Hansen of Kratz, Quintos & Hanson, LLP on Friday, April 4<sup>th</sup> and Wednesday, April 9<sup>th</sup>, and Thursday, April 10<sup>th</sup>, to request an oral election to the above restriction requirement, but did not result in an election being made.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

5. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does

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not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darcy D. LaClair whose telephone number is (571)270-5462. The examiner can normally be reached on Monday-Thursday 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/  
Supervisory Patent Examiner, Art Unit 4174

Darcy D. LaClair  
Examiner  
Art Unit 4171